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### DETAILED ACTION

1. This communication is in response to the amendment filed on 05/17/2010.

Application # 10/571,607.

Claims 1-21 are pending.

### *Election/Restrictions*

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. **Claims** 1, 2, 3, 4, 5, 6, 7, 14, 15, 16 and 21 are directed to In sequence delivery option, which is **classified in the class 370, subclass 235**.
- II. **Claims** 8,9,10,11,12,13, 17, 18, 19 and 20 are directed to TCP window size, which is **classified in the class 709, subclass 234**.

3. The inventions are distinct, each from the other because of the following reasons:

1. The **above inventions I and II are separate, distinct and independent**. Neither requires other for its implementation, they have separate statuses in the art as shown by their **different classification**. Each invention if allowed would be capable for supporting a separate patent. Therefore, restriction for examination purpose is proper.

2. There would be a serious **search and examination burden** if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their **different classification**;

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(b) the inventions have acquired a separate status in the art due to their recognized

**divergent subject matter;**

(c) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

4. Applicant is advised that the reply to this requirement **to be complete must include (i) an election of an invention to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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No telephone interview was conducted due to complexity of the restriction requirement; and an election is seldom made by the applicant over the telephone. (See MPEP 812.01).

### **Conclusion**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahendra Patel whose telephone number is 571-270-7499. The examiner can normally be reached on 9:30 AM to 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MAHENDRA PATEL/  
Examiner, Art Unit 2617